

No 11652-4-Lab-73-39464.—In pursuance of the provisions of Section 17 of the Industries Disputes Act, 1947 (Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of the Presiding Officer, Labour Court, Haryana, Rohtak; in respect of the dispute between the workmen and the management of M/s. Bata Shoe Co., (P) Ltd., Faridabad.

BEFORE SHRI O.P. SHARMA, PRESIDING OFFICER, LABOUR COURT, HARYANA, ROHTAK

Reference No. 129 of 1970

Between

SHRI PASHAM SINGH AND THE MANAGEMENT OF BATA SHOE CO., (P) LTD., FARIDABAD NOW BATA INDIA LTD., FARIDABAD

Present:—

Shri Pasham Singh concerned workman himself.
Shri A.N. Parikh for the management.

AWARD

Shri Pasham Singh concerned workman joined service as a worker in M/s Bata Shoe Co., (P) Ltd. Faridabad now M/s Bata India Ltd., Faridabad in the year 1952. According to the management he was irregular in attendance and his services were terminated in 1956 due to long absence from duty. He was however, taken back on duty but again absented from 8th January, 1968 to 20th January, 1968 without any proper authorisation. The management wrote to him on 30th January, 1968 *vide* letter Ex. M.1 advising him to attend to his duty but without any response from him. Still another letter to this effect was written to him on 8th February, 1968 Ex. M.11 acknowledgement receipt Ex. M.11 but he did not send any reply. The Company still showed him leniency and waited till 20th February, 1968 and when he did not turn up to resume his duty his services automatically stood terminated as per the Standing Order 17(h) Ex. M.1 on record. Intimation whereof was given to him *vide* letter dated 20th February, 1968 Ex. M.3.

Shri Pasham Singh manifestly kept quiet over the matter till 13th December, 1968 when he gave the demand notice which forms part of the present reference. Conciliation proceedings were initiated on this notice which however, ended in failure. On receipt of the failure report from the Conciliation Officer, the Governor of Haryana in exercise of the powers conferred by clause (c) of sub-section (i) of Section 10 of the Industrial Disputes Act, 1947 referred the dispute for adjudication to this court *vide* order No. ID/FD/16-D/19616-20, dated 8th July, 1969, with the following term of reference :—

"Whether the termination of services of Shri Pasham Singh was justified and in order ? If not, to what relief is he entitled ?"

The parties were called upon to put in their respective written statements. The management contested the claim of the workman mainly on the ground that it was a case of automatic termination of the service as per the Standing Orders of the Company due to un-authorised absence from duty of the workman. The validity of the reference was questioned on other grounds also. In his replication Shri Pasham Singh controverted the above allegation of the management and pleaded that, as a matter of fact, he had been taken ill and when he reported for duty after having been declared fit by the E.S.I. Hospital, the management refused him work by way of victimisation because of his union activities.

From the pleadings of the parties the following issues arose for determination in the case :—

AMARSHAH

- (1) Whether there is no reference can be said to be pending in this court for the reasons stated in para No. 1 of the preliminary objections ?
- (2) Whether the workman never raised any dispute so no industrial dispute exists between the parties ?
- (3) Whether the order of reference is in consistent with the facts of the case as the management never terminated the services of the workman ?

AMARSHAH
(4) Whether the claim of the workman is premature because he had not taken recourse to the grievance procedure as provided under the Standing Orders and Rules, therefore, the reference is bad in law ?

- (5) Whether the Industrial Workers Union could not espouse the cause of the applicant Shri Pasham Singh because Shri Pasham Singh was a member of the Bata Shoe Workers Union ?
- (6) Whether the re-reference is bad because the previous reference is still pending which was previously referred to the Labour Court Faridabad ?

- (7) Whether the Government has exceeded its jurisdiction in making the reference to this court?
- (8) Whether this court has no jurisdiction to try or determine this dispute as there is no valid reference and the provision of section 2-A of the Industrial Disputes Act are not applicable?
- (9) Whether the provisions of section 10(2) of the Industrial Disputes Act are not applicable to the present case and so the reference is invalid and this court has no jurisdiction?
- (10) Whether the reference is liable to be dismissed in limine because the claim statement has been signed by Shri Darshan Singh who has no authority to represent the workman as who is a member of Bata Shoe Workers Union and not of the Industrial Workers Union?

The management has examined 2 witnesses M.W. 1 Shri K.B. Sahuja, Stenographer and Shri L.K. Narain Personnel Officer M.W. 2 and placed reliance upon a number of documents including a copy of the Certified Standing Orders of the Company Ex. M.1 ; communication received from the Conciliation Officer Ex. M-2 ; letter dated 20th February, 1968 Ex. M-3 ; A.D. receipt Ex. M.4 ; letter Exs. M. 5 to M.7 addressed to the Conciliation Officer ; notice received from the Conciliation Officer Ex. M.8 ; letter dated 30th January, 1968 and 8th February, 1968 addressed to Shri Pasham Singh Exs. M.9 and M-10; and his acknowledgement receipt Ex. M-11.

On the other hand, Shri Pasham Singh has himself come into the witness box and referred to as many as 20 documents including E.S.I. Hospital chits and some correspondence exchanged between the parties Exs. W. 1 to W. 20.

Arguments have been addressed on both sides. Shri Pasham Singh concerned workman expressed his desire to put-in written arguments also which however, he has failed to do inspite of getting suitable adjournment. I have very carefully gone through the record and given a careful consideration to the matter involved. It is manifestly a case of self abandonment of service by the workman for reasons best known to him although some evidence has been brought on record on behalf of the management to indicate that during the relevant period he was interested and engaged in his Municipal Election campaign I see no reasonable ground to disbelieve the sworn testimony of the 2 responsible witnesses examined on behalf of the management to state that he had remained absent from duty without any proper authorisation during the relevant period. The provisions of the Standing Orders of the Company 17 (h) copy Ex. M-1 on record are clear on the point. As a result of his continuous absence from duty for more than 7 days without leave or proper authorisation his services automatically came to an end and the management was not required to pass any order regarding the termination of his services. A perusal of the record would show that when he had failed to report for duty without any prior intimation the management had taken a lenient view of the matter and written him 2 letters dated 30th January, 1968 Ex. M-9 and 8th February, 1968 Ex. M-10 advising him to resume his duty but without any response from him. In the circumstances ; the management had no alternative but to strike his name of the rolls with effect from 20th February, 1968. Intimation where of was given to him on the same day vide letter Ex. M-3. Shri Pasham Singh had tried to explain that during this period he had been taken ill and medical slips issued by the E.S.I. Hospital were also handed over by him in the office on 12th February, 1968 which fact has specifically been denied by the management and Shri K.B. Sahuja M.W. 1 was not even questioned on this point. The evidence of the management ; on the other hand ; as already pointed out, is that in-fact, he had been seen moving about in connection with his Municipal Election Campaign.

So, taking into consideration all the facts and the circumstances of the case ; I am quite clear in my mind that it was a clear case of self abandonment of service by Shri Pasham Singh due to his long and continuous absence from duty without any proper leave or authorisation, may be on account of his interest in the Municipal Election the inevitable result whereof was that his services automatically came to an end as per the Standing Orders of the Company referred to above.

There is another aspect of the case which deserves consideration here. As per the rule of law laid down by the Hon'ble the Supreme Court in the well known Sindhu Re-settlement Corporation case, the demand has first to be raised on the management and rejected by it before taking up the matter for conciliation to constitute an industrial dispute within the meaning of the law. According to the management no such demand was directly raised by Shri Pasham Singh and the only communication received in this behalf from the Conciliation Officer to which the proper reply was sent containing the aforesaid pleas. Shri Pasham Singh has led no satisfactory evidence to rebut the above contentions of the management.

It will not be out of place to mention here that the demand notice dated 13th December, 1968 when upon conciliation proceedings were initiated and which forms part of the present reference was given by Shri Pasham Singh under section 2-A of the Industrial Disputes Act, 1947 which has clearly no application to the facts of the instant case. For the simple and obvious reason that, as already discussed, it is not a case of dismissal, discharge or termination of services by the management but a case of self abandonment of service by the workman himself.

That disposes of the main issues Nos. 2, 3 and 8 and in view of my above findings on these issues, I am constrained to observe that, as a matter of fact there was no industrial dispute pending between the parties within the meaning of the law nor had the dispute been raised by the workman concerned in the prescribed manner the issues are accordingly decided against him. In the result, he is not entitled to any relief by way of reinstatement or payment of back wages and the award is made accordingly but there shall be no order as to costs. In the circumstances ; it is not necessary to go into the other issues framed in the case.

Dated the 22nd November, 1973.

O.P. SHARMA,

Presiding Officer,
Labour Court, Haryana,
Rohtak.

No. 2595,, dated the 26th November, 1973.

Forwarded (four copies) to the Secretary to Government of Haryana, Labour and Employment Departments Chandigarh as required under section 15 of the Industrial Disputes Act, 1947.

O.P. SHARMA,

Presiding Officer,
Labour Court, Haryana,
Rohtak.

No. 11823-5-Labour-73/39473.—In pursuance of the provisions of clause (b) of rule 4 of the Punjab Welfare Officers Recruitment and Conditions of Service Rules, 1952 published with erstwhile Punjab Govt. Notification No. 2061-LP-52/1204 dated 26th March, 1952 and in exercise of the provisions of section 49 (2) read with Section 50 of the Factories Act, 1948 (Act No. 63 of 1948), the Governor of Haryana is pleased to recognise and add the following names of the institutions dip oma after Serial No. 45 of the list mentioned under rule 5(3) of the said Rules for employment as Welfare Officers in the State of Haryana under the Factories Act, 1948:

46. Punjab University: Diploma Course in Personnel Management and Labour Welfare.

47. Punjabi University: Correspondence Course on Labour Law, Labour Welfare and Personnel Management.

S. N. BHANOT, Secy,

राजस्व विभाग

युद्ध जागीर

दिनांक 10 दिसम्बर, 1973

क्रमांक 2586-ज(I)-73/36221.—पूर्वी पंजाब युद्ध पुरस्कार अधिनियम, 1948 (जैसा कि उस में आज तक हरियाणा सरकार द्वारा संशोधन किया गया है) की धारा 2(ए)(1ए) तथा 3(1ए) के अनुसार सीमे गये अधिकारों का प्रयोग करते हुये हरियाणा के राज्यपाल श्री कुपल सिंह, पुत्र श्री गुलब सिंह, गांव बलियाती, तहसील बचानीबेड़ा, जिला झिवानी को एवी, 1973 से 150 स्पष्ट वार्षिक कीमत वाली युद्ध जागीर, सनद में दी गई शर्तों के अनुसार सहवं प्रदान करते हैं।

दिनांक 11 दिसम्बर, 1973

क्रमांक 2772-ज(I)-73/36434.—पूर्वी पंजाब युद्ध पुरस्कार अधिनियम, 1948 (जैसा कि उनमें आज तक हरियाणा सरकार द्वारा संशोधन किया गया है) की धारा 2(ए)(1ए) तथा 3(1ए) के अनुसार सीमे गये अधिकारों का प्रयोग करते हुए

हरियाणा के राज्यपाल निम्नलिखित व्यक्तियों को वार्षिक कीमत वाली युद्ध जागीर उनके सामने दी कप्तन तथा राशि एवं सनद में दी गई शर्तों के अनुसार सहर्ष प्रदान करते हैं :—

क्रमांक	ज़िला	जागीर पाने वाले का नाम	गांव व पता	तहसील	फसल/वर्षे जब से	राशि
					खरीफ़	रुपये
1	महेन्द्रगढ़	श्रीमती मेवा देवी, विद्वा विहारी लाल	सीहोर	महेन्द्रगढ़	खरीफ़, 1965 से रबी, 1970 तक	100
					खरीफ़, 1970 से	150
2	"	श्री सुरजन सिंह, पुत्र चन्द्र सिंह	पड़तल	,,	खरीफ़, 1965 से रबी, 1970 तक	100
					खरीफ़, 1970 से	150
3	"	श्री श्योतारायण, पुत्र डेडा राम	सलीमपुर (तुरिक्यावास)	नारनील	रबी, 1966 से रबी, 1970 तक	100
					खरीफ़, 1970 से	150

कारीजैण्डा

दिनांक 11 दिसम्बर, 1973

क्रमांक 2825-ज(I)-73/36428.—हरियाणा सरकार, राजस्व विभाग की अधिसूचना क्रमांक 1654-ज(L)-73/25282, दिनांक 20 अगस्त, 1973 के कालम 'तहसील' में क्रमांक 2 के आगे 'अम्बाला' को बजाये 'नारायणगढ़' पढ़ा जाये।

क्रमांक 2661-ज(I)-73/36460.—हरियाणा सरकार, राजस्व विभाग, की अधिसूचना 4182-ज(I)-73/4675, दिनांक 14 फरवरी, 1973 की पांचवीं पंक्ति में "रबी, 1971" को बजाये "खरीफ़, 1971" पढ़ा जाये।

गि० ल० नागपाल, अवर सचिव ।

DEVELOPMENT AND PANCHAYAT DEPARTMENT

The 7th December, 1973

No. PE-2-73/134.—In exercise of the powers conferred by sub-section (1) of section 4 of the Punjab Gram Panchayat Act, 1952 (Act 4 of 1953), and all other powers enabling him in this behalf, the Governor of Haryana hereby makes amendments to the following notification of Development and Panchayat Department published in the *Haryana Government Gazette*, dated the 29th August, 1973 as shown against the notification, namely :—

Notification No. EP-H-73/124,
dated the 29th August, 1973

In the Schedule in column 3 and 4 against serial number 106 for words "Kaithal" and "Kurukshtera" the word "Karnal" shall be substituted.

No. PE-2-73/135.—In exercise of the powers conferred by section 5 of the Punjab Gram Panchayat Act, 1952 (Act 4 of 1953), and all other powers enabling in this behalf, the Governor of Haryana hereby makes amendments to the following notification of Development and Panchayat Department, published in the *Haryana Government Gazette*, dated the 29th August, 1973, as shown against the notification, namely :—

Notification No. EP-H-73/125,
dated the 29th August, 1973

In the Schedule in column 3 and 4, against serial number 106 for the words "Kaithal" and "Kurukshtera" the words "Karnal" shall be substituted.